

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

THEODORE W. SMITH, III

Petitioner,

-v-

**WARDEN, Southern Ohio
Correctional Facility**

Respondent.

Case No. C-3:13-cv-065

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

**ENTRY AND ORDER OVERRULING SMITH'S OBJECTIONS (Doc. #6)
TO THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATIONS; OVERRULING SMITH'S OBJECTIONS TO
THE MAGISTRATE JUDGE'S SUPPLEMENTAL REPORT AND
RECOMMENDATIONS (Doc. #10); OVERRULING SMITH'S AMENDED
SUPPLEMENTAL OBJECTIONS TO THE MAGISTRATE JUDGE'S
SUPPLEMENTAL REPORT AND RECOMMENDATIONS (Doc. #11);
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATIONS (Doc. #5) AND SUPPLEMENTAL REPORT AND
RECOMMENDATIONS (Doc. #9) IN THEIR ENTIRETY; DISMISSING
SMITH'S PETITION FOR A WRIT OF HABEAS CORPUS WITH
PREJUDICE; DENYING ANY REQUESTED CERTIFICATE OF
APPEALABILITY; CERTIFYING THAT ANY APPEAL WOULD BE
OBJECTIVELY UNREASONABLE; AND TERMINATING THIS CASE**

This matter comes before the Court pursuant to pro se Petitioner Theodore W. Smith, III's ("Smith's") Objections (doc. #6) to Magistrate Judge Michael R. Merz's Report and Recommendations (doc. #5) and Smith's Objections (doc. #10) and Amended Supplemental Objections (doc. #11) to Magistrate Merz's Supplemental Report and Recommendations (doc. #9). Both of Magistrate Merz's Report and Recommendations recommend that Smith's Petition for a Writ of Habeas Corpus be dismissed with prejudice. Both also recommend that Smith be denied a certificate of appealability, that the Court should certify to the Sixth Circuit that any

appeal would be objectively unreasonable and that Smith should not be permitted to proceed on appeal in forma pauperis.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Smith's Objections to the Magistrate Judge's Report and Recommendations, Smith's Objections to the Magistrate Judge's Supplemental Report and Recommendations and Smith's Amended Supplemental Objections to the Magistrate Judge's Supplemental Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations and Supplemental Report and Recommendations are adopted in their entirety.

Further, because reasonable jurists would not disagree with this conclusion, Smith is denied any requested certificate of appealability and any appeal would not be taken in objective good faith. Finally, the captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and ORDERED in Dayton, Ohio, this Sixteenth Day of May, 2013.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Theodore W. Smith, III at his last address of record